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**Maryland PSC Orders \$6.5 million in Refunds
For Energy Supplier's Customers**
The Commission also imposes a civil penalty of \$250,000

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(BALTIMORE, MD) – The Maryland Public Service Commission has ordered SmartEnergy Holdings, Inc. to refund \$6.5 million within 90 days to more than 32,000 former customers it enrolled by telephone between February 2017 and May 2019, bringing the end in sight for a case that began six years ago. In March 2021, the Commission upheld findings of a Public Utility Law Judge that SmartEnergy violated Maryland law and regulations prohibiting unfair, false, misleading and deceptive marketing, advertising and trade practices. On appeal from the proposed order, the Commission also found that SmartEnergy violated the Maryland Telephone Solicitations Act in enrolling customers via inbound telephone solicitation without obtaining customers' signatures on their enrollment contracts.

"This case predates the enactment of Senate Bill 1 last year, but underscores the importance of the retail supply reforms ushered in by the passage of Senate Bill 1, which was designed to protect consumers against excessive charges by retail suppliers, require licensing of retail supply salespersons, and capping retail supply charges more closely to the actual cost of the services they provide," said Frederick H. Hoover, Jr., Chair of the Commission. "Our order today will provide some relief to those customers that were harmed by SmartEnergy."

In its March 2021 ruling, the Commission ordered SmartEnergy to re-rate and refund affected customers, and deferred consideration of civil penalties, until after the company complied with the refund order. SmartEnergy appealed the Commission's order to the courts; the Commission's order was subsequently affirmed by the Circuit Court for Montgomery County (November 2021), the Appellate Court of Maryland (2022), and by the Maryland Supreme Court (February 2024). The Commission stayed enforcement of its order until SmartEnergy had exhausted its appeal rights.

SmartEnergy estimated it owed customers \$6 million -- the difference between the supplier's rate and that of the customer's utility default rate. Well before SmartEnergy's appeals were finalized by the Appellate Court in 2022, the Maryland

Office of People's Counsel put the figure owed to at least \$6.5 million, which it later updated to \$16 million. The Commission's Technical Staff argued that, because SmartEnergy continued to service customers during the years in which its appeals remained pending, the refund amount had increased to \$15.97 million. SmartEnergy claimed that amount would bankrupt the company and sought to limit the amount it would have to pay in refunds to \$3 million -- the total of a \$2.5 million appeal bond, a \$250,000 financial security bond, and \$250,000 in cash.

The Commission points out that SmartEnergy's claims of poverty were undercut by the evidence of its payments to company insiders and investors of millions of dollars during the period in question. During an August 14, 2024 hearing, Staff argued that SmartEnergy continued to pay out millions in distributions, salaries, and bonuses, while at the same time ignoring the company's liability to Maryland consumers.

In its order today, while the Commission found that the full \$15.97 million refund amount was correct and appropriate, it noted concern that a protracted refund process over years would add uncertainty and delay, risk non-compliance, and create challenges to administering refunds to customers, factors not in the public interest. Accordingly, the Commission suspended all but \$6.5 million of the full amount, subject to SmartEnergy's full and timely satisfaction of the compliance directives in the order.

In the event of non-compliance, this suspension will be rescinded, and the Commission will utilize any means necessary to collect full refunds for SmartEnergy's Maryland customers, including the transfer of any unpaid refunds to the Maryland Office of Attorney General for enforcement, and the State's collection agency for collection, as well as the possible imposition of an additional civil penalty.

In determining the amount of SmartEnergy's civil penalty in this case, the Commission finds that SmartEnergy's forfeiting of its financial security bond—in the amount of \$250,000—is appropriate. This amount is consistent with the civil penalty imposed by the Commission in other supplier enforcement proceedings.

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About the Public Service Commission:

The Maryland Public Service Commission regulates electric and gas utilities and suppliers, telephone companies (land lines), private water and sewer companies, passenger motor vehicle carriers for hire, taxicab companies in some jurisdictions and bay pilot rates. The

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Commission implements the energy policy of the State and also regulates the siting of energy generating facilities and high-voltage transmission lines.

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